

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

A. Q. Management & Control, Inc.  
4924 Balboa Blvd # 348  
Encino, California 91006  
EPA ID # CAL 920974114  
Respondent.

Docket No. HWCA 2004-0561  
CONSENT ORDER  
Health and Safety Code  
Section 25187

INTRODUCTION

The State Department of Toxic Substances Control (Department) and A.Q. Management & Control, Inc. (Respondent) enter into this Consent Order and agree as follows:

1. Respondent transports hazardous waste at 4924, Balboa Blvd # 348, Encino, California 91006 (Site).
2. The Department inspected the Site on May 14, 2004 and August 13, 2004.
3. The Department alleges the following violations:
  - 3.1. The Respondent violated California Code of Regulations, title 22, section 66263.11, in that on or about May 14, 2004, Respondent failed to obtain registration as a Hazardous Waste Transporter. Respondent's registration expired on September 30, 2002. In 2003, Respondent transported 18 loads of asbestos without current registration.
4. The parties wish to avoid the expense of litigation and to ensure prompt compliance.
5. Jurisdiction exists pursuant to Health and Safety Code section 25187.
6. Respondent waives any right to a hearing in this matter.
7. This Consent Order shall constitute full settlement of the violation alleged

1 above, but does not limit the Department from taking appropriate enforcement action  
2 concerning other violations.

3 8. Respondent admits the alleged violations above.

4 SCHEDULE FOR COMPLIANCE

5 9. Respondent shall comply with the following:

6 9.1. Respondent has corrected the violation cited on 3.1 above.

7 Respondent shall operate hereafter in a manner that shall prevent recurrences of the  
8 violation cited herein.

9 9.2 Respondent hereby agrees to send one employee to California  
10 Compliance School, Modules I – IV. Attendance must be completed by the attending  
11 representative and Respondent must submit a Certificate of Satisfactory Completion  
12 issued by the California Compliance School to the Department of Toxic Substances  
13 Control (DTSC) within 185 days of the date of this Order.

14 9.3. Submittals: All submittals from Respondent pursuant to this  
15 Consent Order shall be sent to:

16 Mukul Agarwal, Unit Chief  
17 Statewide Compliance Division  
18 1011 North Grandview Avenue  
Glendale, California 91201

19 10. Communications: All approvals and decisions of the Department made  
20 regarding such submittals and notifications shall be communicated to Respondent in  
21 writing by a Branch Chief, Department Of Toxic Substances Control, or his/her  
22 designee. No informal advice, guidance, suggestions, or comments by the Department  
23 regarding reports, plans, specifications, schedules, or any other writings by Respondent  
24 shall be construed to relieve Respondent of its obligation to obtain such formal  
25 approvals as may be required.

26 10.1. Department Review and Approval: If the Department determines  
27 that any report, plan, schedule, or other document submitted for approval pursuant to  
28 this Consent Order fails to comply with the Order or fails to protect public health or

1 safety or the environment, the Department may return the document to Respondent  
2 with recommended changes and a date by which Respondent must submit to the  
3 Department a revised document incorporating the recommended changes.

4 10.2. Compliance with Applicable Laws: Respondent shall carry out  
5 this Order in compliance with all local, State, and federal requirements, including but  
6 not limited to requirements to obtain permits and to assure worker safety.

7 10.3. Endangerment during Implementation: In the event that the  
8 Department determines that any circumstances or activity (whether or not pursued in  
9 compliance with this Consent Order) are creating an imminent or substantial  
10 endangerment to the health or welfare of people on the site or in the surrounding area  
11 or to the environment, the Department may order Respondent to stop further  
12 implementation for such period of time as needed to abate the endangerment. Any  
13 deadline in this Consent Order directly affected by a Stop Work Order under this section  
14 shall be extended for the term of such Stop Work Order.

15 10.4. Liability: Nothing in this Consent Order shall constitute or be  
16 construed as a satisfaction or release from liability for any conditions or claims arising  
17 as a result of past, current, or future operations of Respondent, except as provided in  
18 this Consent Order. Notwithstanding compliance with the terms of this Consent Order,  
19 Respondent may be required to take further actions as are necessary to protect public  
20 health or welfare or the environment.

21 10.5. Site Access: Access to the Site shall be provided at all  
22 reasonable times to employees, contractors, and consultants of the Department, and  
23 any agency having jurisdiction. Nothing in this Consent Order is intended to limit in any  
24 way the right of entry or inspection that any agency may otherwise have by operation of  
25 any law. The Department and its authorized representatives may enter and move freely  
26 about all property at the Site at all reasonable times for purposes including but not  
27 limited to: inspecting records, operating logs, and contracts relating to the Site;  
28 reviewing the progress of Respondent in carrying out the terms of this Consent Order;  
and conducting such test as the Department may deem necessary. Respondent shall

1 permit such persons to inspect and copy all records, documents, and other writings,  
2 including all sampling and monitoring data, in any way pertaining to work undertaken  
3 pursuant to this Consent Order.

4           10.6. Sampling, Data, and Document Availability: Respondent shall  
5 permit the Department and its authorized representatives to inspect and copy all  
6 sampling, testing, monitoring, and other data generated by Respondent or on  
7 Respondent's behalf in any way pertaining to work undertaken pursuant to this Consent  
8 Order. Respondent shall allow the Department and its authorized representatives to  
9 take duplicates of any samples collected by Respondent pursuant to this Consent  
10 Order. Respondent shall maintain a central depository of the data, reports, and other  
11 documents prepared pursuant to this Consent Order. All such data, reports, and other  
12 documents shall be preserved by Respondent for a minimum of six years after the  
13 conclusion of all activities under this Consent Order. If the Department requests that  
14 some or all of these documents be preserved for a longer period of time, Respondent  
15 shall either comply with that request, deliver the documents to the Department, or  
16 permit the Department to copy the documents prior to destruction. Respondent shall  
17 notify the Department in writing at least six months prior to destroying any documents  
18 prepared pursuant to this Consent Order.

19           10.7. Government Liabilities: The State of California shall not be liable  
20 for injuries or damages to persons or property resulting from acts or omissions by  
21 Respondent or related parties specified in paragraph 12.2, in carrying out activities  
22 pursuant to this Consent Order, nor shall the State of California be held as a party to  
23 any contract entered into by Respondent or its agents in carrying out activities pursuant  
24 to this Consent Order.

25           10.8. Incorporation of Plans and Reports: All plans, schedules, and  
26 reports that require Department approval and are submitted by Respondent pursuant to  
27 this Consent Order are incorporated in this Consent Order upon approval by the  
28 Department.

10.9. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

10.10. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

## PAYMENTS

11. Respondent shall pay the Department a total of \$2,000 as a penalty. If Respondent fails to make a full installment payment within thirty (30) days of its due date, then the Department, at its option, may declare the entire balance of the outstanding penalty due and owing. If Respondent fails to make any payment timely as provided above, Respondent agrees to pay interest thereon at the rate established pursuant to Health and Safety Code section 253600.1. Respondent further agrees to pay all costs and attorney's fees incurred by the Department in pursuing the collection of any sums the payment of which becomes delinquent hereunder.

12. Respondent's checks shall be made payable to Department Of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street, 21<sup>st</sup> Floor  
P. O. Box 806  
Sacramento, California 95812-0806

A photocopy of the checks shall be sent to:

Mukul Agarwal, Unit Chief  
Statewide Compliance Division  
Department Of Toxic Substances Control  
1011 North Grandview Avenue  
Glendale, California 91201

Respondent agrees to send one employee to the California Compliance School, Modules I through IV. Attendance must be completed and respondent must submit a

1 Certificate of Satisfactory Completion for the employee issued by the Compliance  
2 School to DTSC within 185 days of the date of this Order. In recognition of this  
3 educational investment, the penalty imposed by this Order has been reduced by \$2,000  
4 if the employee satisfactorily completes the specific modules and DTSC receives the  
5 Certificate of Satisfactory Completion within 185 days of the effective date of this Order.  
6 If Respondent fails to submit the certificate as required, the penalty of an additional  
7 \$2,000 over and above the \$2,000 that is due pursuant to paragraph 11, is payable  
8 within 30 days after the 185-day period expires. The 185-day period may be extended  
9 by a DTSC Branch Chief upon a written request demonstrating good cause.

#### 10 OTHER PROVISIONS

11 13. Additional Enforcement Actions: By agreeing to this Consent Order, the  
12 Department does not waive the right to take further enforcement actions, except to the  
13 extent provided in this Consent Order.

14 13.1. Penalties for Noncompliance: Failure to comply with the terms of  
15 this Consent Order may subject Respondent to civil penalties and/or punitive damages  
16 for any costs incurred by the Department or other government agencies as a result of  
17 such failure, as provided by Health and Safety Code section 25188 and other applicable  
18 provisions of law.

19 13.2. Parties Bound: This Consent Order shall apply to and be binding  
20 upon Respondent and its officers, directors, agents, receivers, trustees, employees,  
21 contractors, consultants, successors, and assignees, including but not limited to  
22 individuals, partners, and subsidiary and parent corporations, and upon the Department  
23 and any successor agency that may have responsibility for and jurisdiction over the  
24 subject matter of this Consent Order.

25 13.3. Effective Date: The effective date of this Consent Order is the  
26 date it is signed by the Department.

27 13.4. Integration: This agreement constitutes the entire agreement  
28 between the parties and may not be amended, supplemented, or modified, except as  
provided in this agreement.

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Dated: May 22, 2006

Original signed by Robert Zeilon  
Signature of Respondent's Representative

Original signed by Robert Zeilon, President  
Typed or Print Name and Title of Respondent's Representative

Dated: May 25, 2006

Original signed by Mukul K. Agarwal  
Mukul K Agarwal  
Supervising Hazardous Substance Scientist  
Statewide Compliance Division  
Department Of Toxic Substances Control